square decision on the point, logically bridges the gap by holding that disobedience of the commissioner's orders is contempt of the court appointing him and is punishable as such. See *United States* v. *Beavers*, 125 Fed. 778.

CONTRACTS — CONSIDERATION — PROMISEE A STRANGER TO THE CONSIDERATION. — At the request of his father, and in consideration of advances from him, the defendant executed a writing promising the plaintiff to pay her an annuity. *Held*, that the defendant is liable to the plaintiff. *Hamilton* v. *Hamilton*, 112 N. Y. Supp. 10 (App. Div.). See NOTES, p. 223.

COPYRIGHT — INFRINGEMENT — EFFECT OF RESTRICTIVE NOTICE IN BOOK. — The owners of a copyright published a book in which there was printed a notice that any sale at retail for less than one dollar would be treated as an infringement of the copyright. The defendant bought with notice from a wholesale dealer, who was under no agreement to enforce the terms of the notice, and resold at less than one dollar. *Held*, that there is no infringement under the copyright statute. *Bobbs-Merrill Co.* v. *Straus*, 210 U. S. 339.

By statute authors may secure for a limited time "the sole right of printing, publishing, and . . . vending" their writings. U. S. COMP. ST., § 4952. But the owner of a copyright has power to control sales only so long as he owns the particular copies involved. *Henry Bill Publishing Co.* v. *Smythe*, 27 Fed. 914. If title passes, the owner cannot restrain future sales in spite of any restrictive agreement, but has only an action on the contract. *Harrison* v. *Maynard*, 61 Fed. 689. Under similar statutes protecting patents, a sale with a restrictive notice has been held to pass only a qualified title. *The Button Fastener Case*, 77 Fed. 288. But copyright statutes are intended to protect not so much the physical thing created as the right of multiplying copies. See *American Tobacco Co.* v. *Werckmeister*, 207 U. S. 284. And the courts seem to think that an author realizes sufficiently on the product of his labor when he is allowed the benefits of a first sale. *Wheaton* v. *Peters*, 8 Pet. (U. S.) 591. Accordingly, they refuse to construe the statute as giving the right to control future sales, and hold that title passes unrestricted in spite of the notice.

CORPORATIONS — DISSOLUTION — OUTSTANDING CERTIFICATES. — The defendant, in consideration of the transfer of stock in the A corporation, agreed to pay the holders of preferred stock certain dividends "so long as the certificates are outstanding." The A corporation was later dissolved by vote of the defendant, as majority stockholder, and a decree for the distribution of its assets was issued. The plaintiff, a preferred stockholder, did not present his certificate under this decree, but sued the defendant on his agreement. *Held*, that he cannot recover. *Bijus* v. *Standard Distilling & Distributing Co.*, 70 Atl. 934 (N. J., Ct. Ch.).

A stock certificate is simply evidence of the holder's right to a given share in the management, profits, and ultimate assets of the corporation. *Mechanics' Bank* v. *N. Y. & N. H. R. R. Co.*, 13 N. Y. 599. Upon dissolution the certificates represent the resulting equitable rights of the stockholders to their several distributive shares in the corporate funds. *James* v. *Woodruff*, 10 Paige (N. Y.) 541. And these shares are determined by the decree of dissolution, upon which the certificates are merely evidence of a right to receive certain definite sums under that decree. The court therefore seems justified in holding that these certificates are no longer outstanding within the meaning of the agreement. Hence the contract is by its express terms at an end. Where a corporation makes an employment or other continuing contract for a given number of years there may be a condition implied in fact not to dissolve within that period. *Inchbald* v. *Western Neilgherry Coffee Co.*, 17 C. B. N. S. 733; *Seipel* v. *Internat'l Life Ins. Co.*, 84 Pa. 47. But in the present case the defendant's liability is expressly made dependent upon the certificates remaining outstanding, and the court seems correct in refusing to imply an obligation in law not to terminate such liability by voting for dissolution.

CORPORATIONS — TORTS AND CRIMES — WHETHER CHARITABLE CORPORATION LIABLE FOR NEGLIGENCE OF AGENT. — Through the negligence of

the ambulance driver of the defendant, a charitable corporation, the plaintiff was run over and injured. *Held*, that the defendant is liable in damages. *Kellogg* v. *Church Charity Foundation*, 112 N. Y. Supp. 566.

It is generally stated as a rule of law that a charitable corporation is not liable for the torts of its agents unless there has been negligence in their selection. *McDonald* v. *Mass. Gen. Hospital*, 120 Mass. 432. In nearly all the cases, however, the so-called agents were physicians or nurses over whom the institution had no real control. In such cases the doctrine of *respondeat superior* does not apply; hence the exemption of the corporation is easily explained. *Union Pac. Ry. Co.* v. *Artist*, 60 Fed. 365. Even where the relation of master and servant exists it might be that no beneficiary of a charity should be permitted to complain of negligence in its administration, and at least one case has so held. *Powers* v. *Mass. Homeopathic Hospital*, 101 Fed. 896. But this ground of non-liability cannot prevail against strangers. *Bruce* v. *Central M. E. Church*, 147 Mich. 230. The court in refusing to exempt a charitable corporation for the tort of its servant against a stranger is distinctly logical. And since the liability is incurred in fulfilling the purposes of the trust, it cannot be objected that there is a diversion of the trust funds. *Glavin* v. *R. I. Hospital*, 12 R. I. 411. A recent case denying liability may be distinguished on the ground that in it the servant of the institution was performing a government function. *Noble* v. *Hahneman Hospital of Rochester*, 112 N. Y. App. Div. 663.

DAMAGES — MEASURE OF DAMAGES — PRIMA FACIE RULE IN ADVERTISING CONTRACT. — The defendant agreed to pay a certain sum for the publication of an advertisement in the plaintiff's periodical for one year. After the plaintiff had prepared the advertisement for printing, the defendant repudiated the contract. *Held*, that the contract price is the measure of damages, unless the defendant shows the amount that should be deducted by reason of the repudiation. *Ware Bros. Co.* v. *Cortland Cart & Carriage Co.*, 192 N. Y. 439.

The object of damages for breach of contract is to place the plaintiff in a situation as good as if the contract had been performed. See *Robinson* v. *Harman*, 1 Exch. 850. Accordingly, when performance by the plaintiff would involve outlay or expense, he recovers merely the difference between the contract price and the estimated cost of performance. *Singleton* v. *Wilson*, 85 Tenn. 344. And if performance would ordinarily cause expense, there should be no presumption that the contract price is the measure of damages. But if performance would not ordinarily cause expense, the contract price is *prima facie* the measure of damages, and the burden is on the defendant to show any reduction. Contracts for personal service belong to the latter class. *Howard* v. *Daly*, 61 N. Y. 362; *Pond* v. *Wyman*, 15 Mo. 175. The class also includes contracts where performance would originally have involved expense, but where the expense has already been incurred, so that completion of performance requires no further expenditure. *Wood* v. *Schettler*, 23 Wis. 501. In the principal case, whether the expense of performance is regarded as so small as to be negligible, or as already incurred by preparations for printing, the contract price is *prima facie* the measure of damages. *Peck & Co.* v. *Kansas City, etc., Co.*, 96 Mo. App. 212.

DOMICILE — PERSONS UNDER DISABILITY. — A guardian was appointed over X's person and property because of insanity. X, with his guardian's consent, removed to another state, where he took up his residence, *animus manendi*. *Held*, that X is domiciled in that state. *In re Kingsley*, 160 Fed. 275 (Dist Ct., Vt.). See NOTES, p. 220.

ELECTIONS — DISFRANCHISEMENT: EFFECT OF SENTENCE SUSPENDED. — The New York Constitution provides that a person convicted of an infamous crime shall be disfranchised. A was found guilty of burglary, but sentence was suspended. *Held*, that he is not disfranchised. *People* v. *Fabian*, 192 N. Y. 444.

Where a conviction involves, as a consequence, disabilities, disqualification, or forfeitures, courts will, as a rule, enlarge the ordinary meaning of the word "con-